IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 411 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

TULSIBHAI JIVABHAI CHANGANI

Versus

STATE OF GUJARAT

Appearance:

MR PRAVIN GONDALIYA for MR YOGESH S LAKHANI for Petitioner

MR L.R.PUJARI, ADDL. PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 29/08/2000

ORAL JUDGEMENT

This revision is directed for a limited purpose against the judgement and order dated 15th July 1999 of Additional Sessions Judge whereby he has dismissed the

appeal of the revisionist who was convicted by the trial Court under Sections 420 and 471 of IPC and was sentenced to undergo one year's R.I. on two counts and the two sentences were made to run concurrently. Prayer was made in both the Courts below that the revisionist be released on probation claiming benefit of Probation of Offenders Act. The request was considered by both the Courts below and was turned down by the trial Court as well as by the appellate Court. It is against this portion of the order of the appellate Court that the revision is directed.

2 Nothing was said about the findings of the two courts below upholding the prosecution story beyond all shadow of doubt against the revisionist under Sections 420 and 471 of the IPC.

3 The two courts below after considering the submissions of the revisionist and looking to the gravity of the offence refused to grant benefit of Probation of Offenders Act to the revisionist. The offence was of course of a grievous nature. The allegation against the revisionist was that he made alterations in the mark sheet of 1983 SSC Board and by erasing the mark sheet he got admission in polytechnic classes. It was therefore prima facie an attempt to build career of the revisionist on the strength of the forged and fabricated mark sheet. The gravity of the offence was therefore rightly appreciated by the two courts below. I do not find any good ground to interfere with the discretion in matters of sentence exercised by the two courts below.

4 This Court vide order dated 11.8.1999 called for the report of the Probation Officer. Even on the basis of this report and considering the fact that this was the first offence of the revisionist, I am not inclined to interfere with the findings of the courts below. Revision is therefore dismissed. The revisionist is therefore directed to surrender before the trial Magistrate within two weeks from today.

***

(mohd)